

Section: Free Appropriate Public Education (8 VAC 20-80-60)

Topic: Age of Eligibility

Question 7A-02: Are local educational agencies (LEAs) required to we serve children after they reach age 22?

Answer 7A-02: Yes. If the student's 22nd birthday is after September 30, then the school division is obligated to provide services for the school year.

No. If the student's 22nd birthday is on or before September 30, then the school division is not required to provide services for that school year. 8VAC 20-80-10. Definitions – "Age of eligibility" means all eligible children with disabilities who have not graduated with a standard or advanced studies high school diploma who, because of such disabilities, are in need of special education and related services, and whose second birthday falls on or before September 30, and who have not reached their 22nd birthday on or before September 30 (two to 21 inclusive) in accordance with the Code of Virginia. COV 22.1-213; CFR §300.122 (a) (3) (ii)

Question 7B-02: Are local educational agencies permitted to provide services to children who are younger than the age of 2?

Answer 7B-02: There are no regulations within the *Individuals with Disabilities Education Act* (Parts B and C), *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, or the *Code of Virginia*, which prohibit local educational agencies (LEAs) from serving children under the age of eligibility. LEAs' options are:

1. refer children and families to the Part C early intervention system for the provision of services, or
2. become a Part C early intervention service provider and follow the Part C policies and procedures, or
3. become a service provider independent of Part B regulations and Part C policies and procedures. If an LEA selects this third option, then federal Part B funds cannot be used unless if providing services to a Part B eligible child creates an incidental benefit to a child who is not eligible under Part B (*Regulations Governing Special Education Programs for Children with Disabilities in Virginia* § 8 VAC 20-80-120 F.).